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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,659	03/15/2002	Jeffrey A. Tilton	25102A	2971
22889	7590	07/05/2006	EXAMINER	
OWENS CORNING			BOYD, JENNIFER A	
2790 COLUMBUS ROAD			ART UNIT	
GRANVILLE, OH 43023			PAPER NUMBER	

1771

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/099,659

Applicant(s)

TILTON, JEFFREY A.

Examiner

Jennifer A. Boyd

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER


11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


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11.) Applicant's arguments are not persuasive. Applicant argues that the Examiner cites additional factual support in the final Office Action which was not required by amendment and thus the Office Action should have not been final. The Examiner respectfully argues the contrary. The Examiner did not change the actual rejection but only provided pertinent prior art which provided the requested evidence that the EP-101 and N-720H fibers contained polyethylene terephthalate as polyester component. The finality of the rejection is proper.

Applicant argues that Goettmann does not render obvious the limitations of claims 1 and 27. Although Goettmann teaches outside Applicant's claimed range, Goettmann specifically states that the range and blend of bicomponent fibers may be varied to effect desired physical properties (Goettmann, column 6, lines 35 - 40) as long as the sheet porosity is between 5 - 10 cfm (Goettmann, column 55 - 65). The Examiner has submitted that it would have been obvious to optimize the amount of low melt bicomponent fibers and average fiber diameter of the low melt bicomponent, high melt bicomponent and staple fibers is between 18 - 22 microns. Absent any unexpected results for Applicant's claimed range, the Examiner submits that it is obvious to optimize the amount of bicomponent fibers to 20 - 60% by weight of the insulating material and the average fiber diameter. Despite Applicant's arguments, the Applicant has not provided any evidence of unexpected results which would overcome the obviousness rejection.

Applicant argues that '111 Yamaguchi does not indicate that the EP-101 fibers are bicomponent. According to US Patent 5,851,355 (the applied reference), EP-101 fibers by Kuraray have a co-polyester sheath and a polyester core (column 6, lines 1 - 20). According to US Patent 6,977,111, Examples 9 and 10 discuss the use of non-stretched Kuraray EP-101 fibers (columns 31 and 32). According to Table 2 in US Patent 6,977,111, the non-stretched EP-101 fibers are PET. The Examiner submits that EP-101 fibers are concentric sheath/core CoPET/PET fibers.


Jennifer Boyd
June 29, 2006


W. C. Ruddock
Primary Examiner
Tech Center 1700